



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,487	11/02/2001	Paul T. Browning	0281-0181	2179

7590 03/12/2003

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

EXAMINER

DOAN, ROBYN KIEU

ART UNIT PAPER NUMBER

3732

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,487

Applicant(s)

BROWNING, PAUL T.

Examiner

Robyn Doan

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-22, 24-30 and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Akhtar et al.

With regard to claims 20-22, 24-30 and 39-41, Akhtar et al discloses a hair relaxer cream comprising a first ingredient being an emulsion which includes calcium hydroxide having a concentration of about 1.21% by weight to about 3.45% by weight, based on the total weight of the first ingredient (col. 6, lines 48-54 and lines 63-67), a second ingredient being an aqueous solution which includes guanidine carbonate having a concentration of about 5.68% by weight to about 17.06% by weight based on total weight of the second ingredient (col. 6, lines 65-69 and col. 7, lines 1-5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3732

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 23, 31-38 and 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ottenbrite et al in view of Akhtar et al.

With regard to claims 1-19, 23, 31-38 and 42-50, Ottenbrite et al discloses a method of straightening hair comprising steps of applying composition to the hair, heating the composition and hair to a temperature between about 81 to 122 degrees Fahrenheit for a period of between 5 and 60 minutes and removing the composition from the hair (col. 4, line 10 and lines 39-60). Ottenbrite et al does not disclose the composition including the calcium hydroxide and the guanidine carbonate. Akhtar et al discloses a hair relaxer cream comprising a first ingredient being an emulsion which includes calcium hydroxide having a concentration of about 1.21% by weight to about 3.45% by weight, based on the total weight of the first ingredient (col. 6, lines 48-54 and lines 63-67), a second ingredient being an aqueous solution which includes guanidine carbonate having a concentration of about 5.68% by weight to about 17.06% by weight based on total weight of the second ingredient (col. 6, lines 65-69 and col. 7, lines 1-5). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the compositions as described above as taught by Akhtar et al in to the method of straightening hair of Ottenbrite et al for the purpose of straightening the hair.

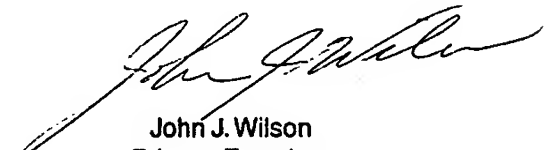
Art Unit: 3732

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Darkwa et al, Bore et al and Khalil et al are cited to show the state of the art with respect to a hair relaxer composition having calcium hydroxide and guanidine carbonate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (703) 306-9182. The examiner can normally be reached on Mon-Fri 9:30-7:00; alternate Mondays off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Robyn Kieu Doan
Examiner
March 9, 2003



John J. Wilson
Primary Examiner